

Chattel Mortgages - Maryland

A chattel mortgage in Maryland is a transfer of legal title and designated personal property as security for debt. Until discharged the mortgages will let upon the property and, if properly recorded, the let is good against the world.

No mortgage of personal property is valid however except as between the parties unless there is endorsed thereon an oath or affirmation of the mortgagee that the consideration of certain mortgage is true and bona fide. This affidavit must be made before the mortgage is recorded, must be recorded with the mortgage, and may be made before anyone authorized to take acknowledgement of the mortgage itself.

Chattel mortgages are usually attested although this is not essential. Acknowledgement however is necessary in order to entitle the mortgage to be recorded.

There is no requirement for refiling (except five years for crop mortgages).

Chattel mortgage may be assigned or leased in the same fashion as a real property mortgage. It is discharged by a release signed by the mortgagee or his assignee: such release being either written on the mortgage or entered upon the record where it is recorded.

Foreclosure by is used rarely if ever and the normal practice is through sale by the mortgagee. This is accomplished either

through warranty power of sale i.e., (1) a clause in the mortgage authorizing the mortgagee or any other person to be named therein to sell the mortgaged property; or (2) assent to a decree i.e., a provision in the mortgage whereby the mortgagor assents to the passing of a decree for the sale of the property. In each case the record holders of at least 25% of the mortgaged debt must consent or make application for sale. In either case the procedure is substantially the same: the mortgagee docket the case in equity with the mortgage attached as an exhibit, the sale takes place after adequate notice, and is approved by the court. (If the sale does not fully satisfy the mortgaged debt and interest, the plaintiff may within three years after final ratification of sale apply for and obtain a decree in personam for the balance due.)